IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE Dr. JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO : 20428 of 2004**

Between:

P.Simon, s/o P.Anjanappa,
r/o Qubella Quarters, Near Floor Mill, 18th Ward,
Yemmiganur, Kurnool District.

**..... PETITIONER**

AND

1 The Regional Manager, APSRTC, Kurnool Region, Kurnool District.
2 The Depot Manager, APSRTC, Adoni Bus Depot, Kurnool District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of mandamus declaring the action of the respondent not paying the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement (i.e., w.e.f. 20-7-1988 to 27-1-1992) as illegal, arbitrary and unjust and consequently direct the respondent to pay the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement (i.e., w.e.f. 20-7-1988 to 27-1-1992).

**Counsel for the Petitioner: MR.Y.SUBBA RAO**

**Counsel for the Respondents: MR.P.VINAYAKA SWAMY**

**The Court at the admission stage, made the following :**

**THE HON'BLE Dr. JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO. 20428 of 2004**

**ORDER:**

The petitioner was appointed as a conductor in the respondent-Corporation in the year 1988. He was issued a charge sheet alleging certain cash and ticket irregularities. Subsequently, an enquiry was conducted and through the proceedings dated 20-07-1988, he was terminated from service. Aggrieved by the said order, the petitioner filed I.D.No.10 of 1990 before the Industrial Tribunal-cum-Labour Court, Anantapur. The Labour Court through its award dated 30-09-1991 directed the respondent—Corporation to reinstate the petitioner with continuity of service, but without back wages. Consequent to the publication of the award, the petitioner was reinstated into service in January 1992. But, his pay was not fixed by adding the notional increments for the period, during which the petitioner was out of service w.e.f. 20-07-1988 to 27-01-1992.

2. The petitioner further contends that the respondents did not challenge the award of the Labour Court, hence it has become final. He therefore approached this Court through this writ petition to direct the respondents to pay the salary to the petitioner by computing the notional increments for the period with the petitioner is out of employment i.e., from the date of termination till the

date of reinstatement (w.e.f. 20-07-1988 to 27-01-1992).

3. The award of the lower Court indicates that on reinstatement the petitioner is entitled for continuity of service, without back wages. A Division Bench of this Court in **Regional Manager, APSRTC, Nizamabad v. B. Chander Rao** held that the employee is entitled for notional increments, in pursuance of the order of the labour court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a decision of the Supreme Court in **APSRTC & another v. S. Narasa Goud** wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorized absence unless the same is regularized. The Division Bench relied on another judgment of the Supreme Court in **Devendra Pratap Narain Rai Sharma v. State of U.P.** and gave the above direction.

4. In the light of the judgment of the Division Bench in **B.Chander Rao** (1 supra) and in the light of the order of the labour court extending the benefit of the continuity of service, the petitioner is entitled to get the notional increments fixed for the purpose of fixation of his pay.

5. In view of the latches on the part of the petitioner in approaching this Court after a period of 12 years, he is not entitled for the difference of amount if any on account of working out notional benefits at the time of refixing of the pay till this date and he is entitled for the monitory benefit from the date of order of this court only.

6. In the result, the writ petition is allowed. The respondents are directed to fix the pay of the petitioner by working out the notional increments of the petitioner from the date of order of this court, within eight weeks from the date of receipt of this order.

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**November 8, 2004**

KVR

To

1 The Regional Manager, APSRTC, Kurnool Region, Kurnool District.
2 The Depot Manager, APSRTC, Adoni Bus Depot, Kurnool District.

3 Two C.D. copies